
Emergency Rules

Title 15—ELECTED OFFICIALS Division 30—Secretary of State Chapter 10—Voting Machines (Electronic)

EMERGENCY RULE

15 CSR 30-10.150 Closing Polling Places (Precinct Counters and DREs)

PURPOSE: This rule provides procedures for administering and closing polling places using Optical Scan Precinct Count voting systems (Precinct Counters) and Direct Recording Electronic voting systems (DREs).

EMERGENCY STATEMENT: The Help America Vote Act (HAVA) of 2002, requires each state to enact laws to improve election administration, to provide accessible voting stations and to provide notice to a voter who has overvoted and an opportunity to correct their ballot. As part of the Elections Division program for compliance with HAVA and the equipment procurement process, the secretary of state (SOS) reviewed existing rules regarding use of electronic voting systems. This review revealed that the current rules did not include any specific procedures for testing and use of DREs and Precinct Counters. As the local jurisdictions are in the process of implementing their HAVA compliant voting systems, it has become apparent that all jurisdictions will be using DREs for the first time and the vast majority of voters in the state of Missouri will be using Precinct Counters, many of them for the first time. The increased numbers of voters and jurisdictions using DREs and Precinct Counters makes uniform procedures for their testing and use crucial to the improvement of election administration. As the first election in 2006 approaches that involves all local election authorities using DREs and Precinct Counters, many for the first time (August 8, 2006), there is a compelling governmental interest for uniform procedures for their testing and use.

The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Office of the Secretary of State believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed June 21, 2006, effective July 1, 2006, expires February 22, 2006.

(1) Once one vote is cast on a DRE, the poll workers shall encourage voters to cast their votes on that unit so that at least two (2) more ballots are cast on that unit, even if not by voters needing its accessibility components, in order to protect the privacy of the voter.

(2) Abandoned Ballots.

(A) If a voter leaves the polling place after making their selections on a DRE and printing their ballot, but the voter has not cast the ballot, a bipartisan team of two (2) election judges shall cast the ballot.

(B) If a voter leaves the polling place after making their selections on a DRE, but the voter has not printed or cast their ballot, a bipartisan team of two (2) election judges shall cancel the ballot and make a corresponding notation on an Abandoned Ballot Tracking Form, initialed by both judges.

(C) If a voter places an optical scan ballot into a precinct counter and the precinct counter rejects the ballot after the voter has left the polling place and if the ballot is still in the precinct counter, a bipartisan team of election judges shall take action to ensure that the ballot is counted and deposited in the ballot box.

(D) If a voter leaves their optical scan ballot any where in the polling place other than in the precinct counter or ballot box and the voter leaves the polling place, the ballot shall not be counted. A bipartisan team of election judges shall mark the ballot "Abandoned"

and place the ballot in the Spoiled Ballot Envelope. The judges shall make a corresponding notation on an Abandoned Ballot Tracking Form, initialed by both judges.

(3) Immediately after the polls close and the last voter has voted, the election judges shall close, or supervise the closing of, each of the DREs and Precinct Counters in the polling location against further voting.

(4) The election judges shall cause each DRE and Precinct Counter to print a minimum of one (1) tape showing the number of votes cast on that unit. They shall compare the number of ballots cast as shown on the tape with the number of ballots cast as shown on the election counter of the unit and with the number of voters who signed the precinct register and for precinct counters with the number of ballots marked. If these numbers are not identical, the election judges shall document the discrepancy.

(5) The election judges shall accumulate the votes recorded in each unit onto paper audit trail records for the DREs as well as the electronic medium chosen by the election authority, as appropriate for the make, model, and version of the system in use.

(6) After completing the procedures in sections (3)–(5), the memory components shall either be removed from any unit that will not be returned to the central location on election night or remain sealed in the unit as appropriate for the make, model and version of the system in use. The DREs and Precinct Counters shall be turned off and secured in their cases and locked or resealed. The number of each seal shall be entered on the appropriate form along with the serial number of the unit or unit case on which it is used. The units or cases shall then be placed in a secure area.

(7) Any provisional ballots, optical scan ballots, spoiled ballots, paper cast vote records and memory components shall be secured in tamperproof containers securely sealed in such a manner that if the container is opened, the seal will be broken beyond repair.

(8) Audit tapes, voter access cards, supervisor's card, ballot encoder devices, precinct binders, numbered lists of voters, voter certificates, recap sheets, and other such paperwork shall be transported to the election authority.

(9) All paper cast vote records shall be preserved and secured by election judges in the same manner as paper ballots and shall be available as an official record when a manual recount of votes is ordered and for the post-election verification of the electronically tabulated vote results required by 15 CSR 30-10.060.

AUTHORITY: section 115.225, RSMo Supp. 2005. Emergency rule filed June 21, 2006, effective July 1, 2006, expires Feb. 22, 2007. An emergency rule and proposed rule covering this same material will be published in the August 1, 2006 issue of the Missouri Register.